

House Bill 333 (AS PASSED HOUSE AND SENATE)

By: Representatives Starr of the 78th, Talton of the 145th, Lunsford of the 110th, and Glanton of the 76th

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 17-5-52 of the Official Code of Georgia Annotated, relating to sale or destruction of weapons used in the commission of a crime or delinquent act involving possession, so as to provide that weapons used in the commission of a crime or a delinquent act shall be turned over to the sheriff, chief of police, or other executive officer of a law enforcement agency which confiscated the weapon for disposal in accordance with law; to provide for procedures for disposal and record keeping; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 17-5-52 of the Official Code of Georgia Annotated, relating to sale or destruction of weapons used in the commission of a crime or delinquent act involving possession, is amended by revising such Code section as follows:

"17-5-52.

(a) When a final judgment is entered finding a defendant guilty of the commission or attempted commission of a crime against any person or guilty of the commission of a crime or delinquent act involving the illegal possession or carrying of a weapon, any device which was used as a weapon in the commission of the crime or delinquent act shall be turned over by the person having custody of the weapon or device to the sheriff ~~of the county, chief of police, or other executive officer of the law enforcement agency that originally wherein the device was confiscated~~ the weapon or device when the weapon or device is no longer needed for evidentiary purposes. Within 90 days after receiving the weapon or device, the sheriff, chief of police, or other executive officer of the law enforcement agency shall retain the weapon or device for use in law enforcement, destroy the same, or ~~advertise it for sale in such manner as other sheriff's sales are advertised and shall sell the device to the highest bidder at the next sheriff's sale conducted after the completion of the advertisements~~ sell the weapon or device pursuant to judicial sale as

1 provided in Article 7 of Chapter 13 of Title 9 or by any commercially feasible means,
2 provided that, if the weapon or device used as a weapon in the crime is not the property of
3 the defendant, there shall be no forfeiture of such weapon or device.

4 (b) The proceeds derived from all sales of such weapons or devices, after deducting the
5 costs of the advertising and the sale, shall be turned in to the treasury of the county ~~wherein~~
6 ~~the sale is made; provided, however, that if the device was used in the commission of a~~
7 ~~crime within a~~ or the municipal corporation; ~~the proceeds derived from the sale of that sold~~
8 ~~the~~ weapon or device, after deducting the costs of the advertising and the sale, shall be
9 turned in to the treasury of the municipality wherein the crime was committed. The
10 proceeds derived from the sale of such weapons or devices confiscated by a state law
11 enforcement agency shall be paid into the state treasury.

12 (c) Any law enforcement agency that retains, destroys, or sells any weapon or device
13 pursuant to this Code section shall maintain records that include an accurate description of
14 each weapon or device along with records of whether each weapon or device was retained,
15 sold, or destroyed."

16 SECTION 2.

17 This Act shall become effective upon its approval by the Governor or upon its becoming law
18 without such approval.

19 SECTION 3.

20 All laws and parts of laws in conflict with this Act are repealed.